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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,104	11/17/2003	Konstantin L. Valtchev	2-1861-032	3273
7590 Konstantin L. Valtchov, M.D. Suite 501 233 Beecroft Road Toronto, ON M2N 6Z9 CANADA				
04/15/2008				
EXAMINER				
PATEL, TARLA R				
ART UNIT		PAPER NUMBER		
3772				
MAIL DATE		DELIVERY MODE		
04/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/715,104

Examiner

TARLA R. PATEL

Applicant(s)

VALTCHEV, KONSTANTIN L.

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on **19 March 2008** is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other See Continuation Sheet.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☒ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☒ C. Other See Continuation Sheet.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an **after-final** amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Patricia Bianco/ SPE Art Unit 3772

Legal Instruments Examiner (LIE), if applicable

Telephone No.



Continuation of 1(c) Other: Applicant's amendments to the specification were not in compliance with 37CFR 1.121 (b)(1)(i-5). Applicant fails to provide a substitute specification without marking and incorporating the new amendments, applicant also fails to provide new amendments to the specification with underlining and lines striking through the claim limitations that applicant wants to delete. See MPEP 1714 for further guidance.

Continuation of 3(c) Other: The amendment filed on 3/19/08 requests the incorporation of amended drawing sheets. Applicant is reminded that when the drawings are amended, the new, Replacement sheet(s) must be submitted with the phrase "Replacement Sheet" clearly marked on the pages (i.e. on the amended drawing sheets). Applicant is required to provide new, properly labeled amended drawing sheets.

Continuation of 4(e) Other: Originally filed claims 1-10 are 15-18 are currently withdrawn to a Non-Elected Invention as per restriction requirement on 5/4/07. Therefore the status identifier for claims 1-3,5-6, and 9 should be "Withdrawn-Currently Amended" in parentheses for each of these claims. Further, for claims 7-8,10, and 15-18 the status identifier should be "Withdrawn" in parentheses for each of these claims. Furthermore, for claims 21-26 the status identifier should be "Withdrawn" in parentheses for each of these claims and for claims 11-12 and 19 the status identifier should be "Currently Amended" in parentheses for each claim.

Continuation of 5 Other: The amendment filed 3/19/08 was not filed timely. A 3-month time limit for response by applicant was set forth in the FINAL rejection; please note 37 CFR 1.135 sets forth that applicant is responsible to file their response, arguments &/or amendments, timely to avoid abandonment of the application. Applicant's response was filed at 4 months from the date of the final rejection, therefore, according to Rule 37 CFR 1.136 (a), applicant is required to file at least a 2 months extension fee to have the amendment & response entered into the case for action by the examiner. If applicant does not file a response with the fee by 4-19-08, an additional one month fee (3 months total) would need to be filed. As an alternative course of action, Applicant may instead choose to file an Request for Continued Examination (RCE) along with the appropriate fees to avoid abandonment of the application and request entry of the amendment & response.